IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 4792 of 2001

to

FIRST APPEAL No 4794 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE Y.B.BHATT
and
Hon'ble MR.JUSTICE M.H.KADRI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

NEW INDIA ASSURANCE CO LTD.

Versus

NITINKUMAR NARSIBHAI BHALARA

Appearance:

1. First Appeal No. 4792 of 2001
   MR SUNIL B PARIKH for Petitioner No. 1
   NOTICE UNSERVED for Respondent No. 1
   NOTICE SERVED for Respondents No. 2-3
2. First Appeal No. 4793 of 2001
   MR SUNIL B PARIKH for Petitioner No. 1
   Mr. Paresh Sayani for Respondent No. 1
3. First Appeal No. 4794 of 2001
   MR SUNIL B PARIKH for Petitioner No. 1

Mr. Paresh Sayani for Respondent No. 1

CORAM : MR.JUSTICE Y.B.BHATT
and
MR.JUSTICE M.H.KADRI

Date of decision: 21/01/2002

COMMON ORAL JUDGEMENT

(Per : MR.JUSTICE Y.B.BHATT)

1. Heard learned counsel for the appellant and learned counsel for the respondents-original claimants in First Appeals Nos.4793 of 2001 and 4794 of 2001.

2. These are appeals under Section 173 of the Motor Vehicles Act, 1988, wherein the appellant challenges the judgment and awards passed by the Motor Accident Claims Tribunal (Aux.), Surendranagar, in a group of claim petitions filed under Section 166 of the said Act.

3. The short and only point raised in the present appeals by the appellant is that the Tribunal has erred in awarding interest at the rate of 12% per annum from the date of the claim petitions upto realisation.

4. We are conscious that the rates of interest have been consistently dropping over a period of time. We are also conscious of a number of decisions in the context of the appropriate rate of interest, both of the Supreme Court, as also of this Court. In our opinion, the flat rate of interest awarded by the Tribunal at 12% per annum is certainly excessive, at least to some extent. There cannot be any controversy in this regard.

5. In the light of the various decisions of this Court, as also of this very Bench, we are of the opinion that the impugned awards require to be modified, only in respect of the rate of interest awarded, by holding and directing that the claimants shall be entitled to the compensation determined by the Tribunal under the impugned awards together with proportionate costs and interest (on the compensation awarded) at the rate of 12% per annum from the date of the claim petition upto 31st December, 1999 and the rate of of 9% per annum thereafter upto deposit or realisation.

6. The impugned awards are modified only to the aforesaid extent, and the rest of the awards are hereby confirmed. These appeals are, therefore, partly allowed

to the aforesaid extent with no order as to costs.

7. Decree accordingly.

8. We are conscious that we are deciding First Appeal No.4972 of 2001 in absence of the original claimants. However, we have done so only because the point involved in this appeal is very narrow and also because it is a question of law on which various decisions of this Court, as also of the very Bench, completely cover the situation. However, we reserve liberty to the original claimants in this appeal to apply in case of difficulty upto 20th February 2002.

9. Direct service is permitted.

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(swamy)